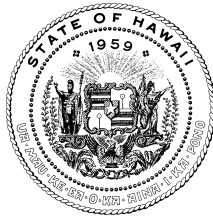


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**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

**MINUTES  
MAUI/LANAI ISLAND BURIAL COUNCIL MEETING**

**DATE: THURSDAY, APRIL 27, 2006  
TIME: 9:00 A.M.  
PLACE: COUNTY OF MAUI  
PLANNING DEPARTMENT  
KAULANA PAKUI BUILDING 1<sup>ST</sup> FLOOR  
250 S. HIGH STREET  
WAILUKU, HI 96793**

**ATTENDANCE:**

**Members:**

Charles Maxwell, Chair  
Dana Naone Hall, Vice-Chair  
Leslie Kuloloio  
Keeaumoku Kapu  
Edward Kaahui  
Scott Fisher  
Pua Paoa  
William Frampton

**Absent:**

Kema Kanakaole (excused)  
Mei Lee Wong (excused)

**Staff:**

Kawika Farm, Clerk Stenographer II  
Vince Kanemoto, Deputy Attorney General  
Melissa Kirkendall, Maui Archaeologist  
Hinano Rodrigues, Cultural Historian  
Jenny Pickett, Maui Assistant Archaeologist

**Guest:**

Karlynn Kawahara	Allan Hasegawa
Gene Matsushige	Tony Krauss
Pam English	Kalani Schmidt
Verna Podlewski	Michael Munekiyo
Ryan Churchill	Daren Suzuki
Yarrow Flower	Michael Dega
Mark Alexander Roy	Calvin Higuchi
Lisa Rotunno-Hazuka	Jacob Kapu
Erik Fredericksen	Uilani Kapu

Chubby Vicens  
Russel Gushi

Bill Horneman  
Steffi Ross

## **I. OPENING REMARKS**

Maui/Lanai Islands Burial Council (MLIBC) Chair, Charles Maxwell calls the meeting to order at 9:15 a.m. C. Maxwell calls on Keeaumoku Kapu to give *pule wehe*.

## **II. APPROVAL OF MINUTES**

Dana Hall wanted to clarify and make minor corrections to the February 23, 2006 meeting minutes. D. Hall said the last paragraph on page nine which read, "Lui-Kwan asked if there were a set of written rules or policies pertaining to buffers to which the answer was no," clarified that the Hawaii Administrative Rules (HAR) for both archaeology and burials contain references to the necessity for buffers when sites were preserved. D. Hall said no formula in regard to buffers was given because each circumstance is different and treated as an individual circumstance. D. Hall said lines 20 and 21 in the second paragraph on page 11 needed two changes. The first change was replacing the word "she" to "that" in line 20. The second change was replacing the word "indefinitely" to "she" in line 21. D. Hall said line four in the second paragraph from the bottom of page 19 needed to be amended so the word "informing" was replaced with "involving".

**Edward Kaahui moved and K. Kapu seconded, "that the Maui/Lanai Islands Burial Council approves the minutes of February 23, 2006."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**D. Hall moved and Scott Fisher second, "that the Maui/Lanai Islands Burial Council approves the January 26, 2006 minutes."**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

## **III. BUSINESS**

### **A. BURIAL TREATMENT PLAN FOR SITE 50-50-03-5769 IN THE MAHANALUA NUI SUBDIVISION, PHASE IV, LAUNIUPOKO AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK (2) 4-7-09:37**

**Determination:** Determination on a request to preserve in place human skeletal remains.

Mike Dega of Scientific Consultant Services (SCS) introduced himself and thanked Hinano Rodrigues for his help with getting the burial treatment plan (BTP) on a determination level. M. Dega said the agenda item had been before the council in November and December of 2005. M. Dega said the site was visited in December by, K. Kapu, Uilani Kapu and E. Kaahui to assess the area. D. Hall asked if the particular agenda item presented at earlier meetings was for informational and consultation purposes to which M. Dega said yes. D. Hall said today's meeting was the first time the

council had a chance to look at a written plan. M. Dega said he brought a written plan in December at which time [the plan] was discussed with the council for informational purposes. D. Hall asked if the BTP had been revised to which M. Dega said yes. D. Hall said there were still some problems with the BTP.

M. Dega said the burial was discovered during inventory survey at Launiupoko in an area previously surveyed by Graves et al [1998]. M. Dega said the site consisted of three rock shelters labeled A, B, and C which were tested and recorded by SCS. M. Dega said several unarticulated remains were discovered at Feature C which included portions of a foot and vertebrae. M. Dega said SCS suspected the remains were of a young female but could not be sure without further diagnostic remains. M. Dega thought because of the three rock shelters, it was likely the site was of a prehistoric traditional native Hawaiian occupation which was supported by the discovery of basalt flakes, several modified shells and charcoal. M. Dega said the front portion of the rock shelter designated Feature C was once sealed with a small rock wall. M. Dega said the original rock wall had been taken down or eroded, but was unsure which if not both had occurred. M. Dega said the sediment within the shelter covering the remains was very thin, approximated at 3-5 inches thick at max. M. Dega said the thin layer of soil that covered the remains could be the result of erosion over a period of time which may also explain why very little remains were found. M. Dega said a 50 centimeter by 50 centimeter unit was excavated during the site visit by K. Kapu and E. Kaahui. M. Dega said K. Kapu placed the discovered remains back into the rock shelter and covered the remains with soil.

M. Dega said two buffer zones were in existence at the time of the site visit by the council members. M. Dega said one buffer encompassed the entire site and part of the surrounding area totaling about 2000 square feet. C. Maxwell asked if the preservation area just described was an original preservation area. M. Dega said no and explained that SCS had worked with the "Launiupoko folks" to establish the buffer area of about 2000 square feet. M. Dega conveyed K. Kapu's feeling of wanting an internal buffer immediately around the rock shelters within the 2000 square foot preservation area, which would then protect the site with two buffers. M. Dega approximated the internal buffer area to be 750-1000 square feet. M. Dega said there were currently two sets of orange construction fence surrounding the site.

D. Hall asked if the construction fence was put up because of activity taking place on lot 35. M. Dega said there was activity on lot 35 which did lead to concerns of possibly causing a rock to fall onto the shelter, which was partly why the construction fence was placed at the top of the slope. D. Hall asked what kind of activity was occurring on lot 35. M. Dega said the lot was being graded and mentioned the necessary permits were "in" prior to the inventory survey by SCS. D. Hall asked if the grading permits were issued on the basis of SHPD's (State Historic Preservation Division) review of the Graves inventory survey which purportedly included the subject area, to which M. Dega said correct. D. Hall asked if SCS had discovered the site while inventorying an area which had already been surveyed by Graves, to which M. Dega said correct. M. Dega said the area being surveyed was not staked out which lead SCS surveying about 50 meters into an area that Graves had surveyed. M. Dega said he last visited the area in January and noticed the closest work taking place was 200 meters away from the edge

of the slope above the site. D. Hall if there was much soil deposition to which M. Dega said no.

K. Kapu asked if the site discovered was in an area previously surveyed to which M. Dega answered yes. At the MLIBC meeting in December of 2005, K. Kapu said he had repeatedly voiced his concern about discovering remains in a previously surveyed area and his desire to have the entire project area resurveyed. C. Maxwell asked K. Kapu to share his thoughts on the possibility of having a wall built for the rock shelter. K. Kapu said he wanted to know how wide the site would be and that people would stay out of the preservation area. K. Kapu said he was also concerned about surrounding sites that were or could be in the area. K. Kapu wanted to restrict access in the whole area. M. Dega said he agreed with K. Kapu and also favored establishment of the second internal buffer as additional protection for the rock shelters.

C. Maxwell asked if SCS would restudy the project area as well as construct the enclosure for the rock shelter. M. Dega said SCS would take care of the site being discussed, but resurveying the area was an issue for SHPD since the state approved the initial inventory survey. Melissa Kirkendall said a number of permits had been issued for lots in the area over the past three years. M. Kirkendall suggested SHPD could request field inspections for any permits received from the county in the future. M. Kirkendall said a field inspection should accommodate K. Kapu's concern because if a site was identified by a qualified archaeologist, then resurveying the area may be warranted. M. Kirkendall said the project area had been subdivided and sold and as a result, SHPD would need to work with each individual lot owner instead of the developer. M. Kirkendall said SHPD would request field inspections on all future permits in the Launiupoko area.

K. Kapu said he was concerned about a previous plan involving a hiking/horseback riding/bike trail which stretched over the larger part of the Launiupoko project area. K. Kapu wanted to know what would happen if sites were discovered during use of the trail. M. Kirkendall said the issue could be addressed with the developer since the developer was creating the trail. M. Kirkendall said SHPD could request the developer to do a field inspection of the corridor. C. Maxwell asked M. Kirkendall to clarify what a field inspection was. M. Kirkendall said a field inspection was basically "SHPD's eyes on the ground". M. Kirkendall said traditionally SHPD staff would go out to project areas to conduct field inspections to determine if additional work needed to be completed. M. Kirkendall said SHPD had been asking developers to hire qualified archaeologist to conduct field inspections on their own. M. Kirkendall said field inspections could result in having to do an inventory survey, but usually work unless sites were identified. K. Kapu wanted to know if permits pertaining to hiking, horseback riding, or bike trails went to SHPD for review. M. Kirkendall said she had not seen a permit pertaining to trails yet and thought the issue may depend on the volume of grading activity, ADA (American Disability Act) improvements or landscape alterations. D. Hall interjects to ask M. Kirkendall if she was referring to actions that would trigger a permit review by SHPD to which M. Kirkendall answered yes.

K. Kapu wanted to know why review of the trail had not gone to SHPD given the trail stretched for about 10 miles and there were signs which designated the trail as a

walking trail used by horses and pedestrians and the fact the trail was a public easement. M. Kirkendall said an inventory survey was completed for the property on which the trail currently sat. M. Kirkendall said SHPD would take a retroactive approach by requesting field inspections that would hopefully give the division “eyes on the ground”. M. Kirkendall said if historic sites were identified during the field inspection, then SHPD could recommend resurveying the area. M. Kirkendall reiterated the need for an action from the county in order to trigger a review from SHPD. M. Dega said the trail may have a time depth factor which involved oral history of the trail that may allow for it to be designated as a state site.

Leslie Kuloloio had questions concerning pages 2, 3, 4, and 5. L. Kuloloio asked what the total acreage of the project area was. M. Dega said the project area totaled 570.3 acres. L. Kuloloio was confused because he did not know what information came from what report and could not distinguish what was done by SCS, from [Paul] Rosendahl, from [Alan] Haun, to Graves. M. Dega said figure 3 on page 4 of his BTP showed an outline in white of 430 acres which was conducted by Graves as a stand alone report. L. Kuloloio wanted to know how many acres were shown on page 5 of the BTP. M. Dega said page 5 was a blow up of the area where the site was identified and totaled about 80-100 acres. L. Kuloloio asked how many acres were being shown on page 3 of the BTP to which M. Dega estimated around 2000 acres. L. Kuloloio asked how many field inspections had been done and at what stage of the process were field inspections used. M. Kirkendall said field inspections were a relatively new terminology in the way they were used. M. Kirkendall said traditionally SHPD would conduct field inspections if there was a lack of information in the division’s archives and physically visit a project area to determine if an inventory survey was needed. M. Kirkendall said currently developers are asked to hire an archaeological firm to walk the parcel and make a recommendation to SHPD based on the inspection.

L. Kuloloio wanted to know if SHPD was aware that the subject property being discussed had been previously surveyed to which M. Kirkendall answered yes. L. Kuloloio wanted to know how much archival information SHPD had relating to the history of Lahaina and Maui and if SHPD had maps dating back to 1846 and 1847. L. Kuloloio wanted to know if SHPD had maps of Maui’s, “King’s Trail”. L. Kuloloio wanted to know how far back SHPD records date. M. Kirkendall said inventory survey reports are required to have a certain amount of documentation. M. Kirkendall said SHPD had been using information accumulated over time to help determine whether additional work needed to be carried out. M. Kirkendall said the work reviewed by SHPD has been getting better in the sense that a report submitted in the early 1990s would not be up to standards as reports currently being submitted. L. Kuloloio asked if SHPD did background research on entities such as Pioneer Mill, Amfac, and the Lahaina Restoration Foundation to the extent of accessing the entities’ personal records. M. Kirkendall said SHPD did not do the extensive type of background research L. Kuloloio referred to and that SHPD relied on the archaeological firms to manage background research.

K. Kapu said the point he wanted to make was that an inventory survey which had been approved by SHPD missed a burial and therefore should be resurveyed. K. Kapu was concerned because there were other sites that were missed in the previously surveyed

area which included petroglyphs. K. Kapu was uncomfortable about sole responsibility resting with the land owner as to whether or not an archaeologist would be hired and the scope of preservation that would occur. The best suggestion M. Kirkendall had was to work with the individual property owners and to request from the county that the permits were sent to SHPD for review. M. Kirkendall said SHPD would recommend field inspections on parcels as private property owners sought to build homes.

S. Fisher suggested replacing the word “surveyed” with “scurrying” in the first sentence of the third paragraph on page seven of the BTP. S. Fisher pointed out some of the language used on page 15 referenced action for future interim preservation measures, while language on page 13 suggest that certain interim preservation measures had already been implemented. M. Dega said he would fix the language within the BTP.

L. Kuloloio wanted to know how many acres would be developed if the council approved the BTP. M. Dega said there would be no development because the issue being discussed was for a preservation area. L. Kuloloio wanted to clarify what it was the council was approving. M. Kirkendall said the BTP before the council was for a single parcel and that figure 8 on page 13 was believed to be less than five acres. M. Kirkendall said the subject parcel was owned by a single individual and part of the drainage was owned by the county. M. Dega said the county owned a 100 foot setback. D. Hall asked if the county owned the setback or if the county had an easement. M. Dega said the county had an easement. M. Kirkendall said the burial was on a small parcel around five acres in size. L. Kuloloio asked if the council was being asked for a determination on approving the BTP which encompassed a five acre parcel of the 500 plus acres within the project area. M. Kirkendall said yes. L. Kuloloio wanted to be sure the council was not approving a “green light” for the entire 570 acre project area. M. Dega said the parcel was only 2.02 acres.

K. Kapu wanted to know if the landowner of lot 35 also owned and had jurisdiction over the site as well. M. Kirkendall said the burial was on lot 35 and the property owner was responsible for the upkeep and preservation of the burial. K. Kapu asked if an effort was made to locate possible heirs to the remains discovered. M. Dega said no heirs were sought through LCAs (land commission award), but SCS did advertise in the newspaper. K. Kapu wanted to know if the landowner was present to which M. Dega answered no. K. Kapu asked if development of the lot had started. M. Dega reiterated that some grading had occurred. K. Kapu asked to see future plans pertaining to the lot with the burial site. K. Kapu wanted to know what the landowner needed to be compliant with. M. Kirkendall said the landowner needed to follow what was dictated within the preservation plan. V. Kanemoto mentioned there would be a bill signing ceremony regarding a particular bill recently passed by the legislature which made actions that knowingly violate the terms and conditions of a mitigation plan a civil and administrative violation.

Uilani Kapu the president of Kuleana Kuikahi introduced herself and said she had recently looked at maps by archaeologist which identified lots of new sites. U. Kapu asked if there was a way for the council to mandate resurveying the entire Launiupoko subdivision as well as the *puus* in the area. U. Kapu was also concerned about protecting the native plants in the area. C. Maxwell also favored resurveying the project

area. L. Kuloloio said he was unsure what the approved inventory survey by Paul Rosendahl was for. K. Kapu said Paul Rosendahl's report was originally for a golf course.

D. Hall thought M. Kirkendall's suggestion for field inspections was a reasonable way to deal with the matter of additional archaeological scrutiny being exercised over the lands covered by large scale surveys. M. Dega agreed with M. Kirkendall's suggestion of requesting field inspections to possibly identify missed sites. D. Hall wanted clarification if final subdivision approval had been granted to which M. Dega answered yes. D. Hall was concerned with the map on page five because the map was listed as a "general information map (not to scale)", and wanted to know if figure 4 on page five would be revised. M. Dega said the map of figure 4 was received from the developer and included in the BTP to basically address a question by M. Kirkendall and show what type of infrastructure was occurring in the general vicinity of the burial. D. Hall repeated K. Kapu's request for building plans pertaining to lot 35 so the council had a better idea of what the distances of proposed construction would be from the burial. D. Hall asked what the meaning of a drainage reserve easement was. M. Dega said he was not sure and did not want to interpret engineering plans. D. Hall asked what the purpose of the easement was and if the drainage easement was designed to handle a 50 or 100 year storm. M. Dega said the drainage easement was designed to handle a 100 year storm. D. Hall said the answers to her questions would impact what type of mitigation the council wanted in protecting the burial from storm water. M. Dega gave an informal opinion based on what he knew and said a 100 foot buffer zone was taken to be used as an easement for a 100 year flood. M. Dega said the client increased the easement by installing a culvert.

William Frampton said easements were a requirement of the county due to drainage and topography of an area which made easements "no build zones". W. Frampton asked if the landowner of lot 35 had been made aware about the discovery of the burial to which M. Dega said yes. W. Frampton asked about lot 36. M. Dega thought lot 36 had not been sold, but mentioned it could have been within the last few months. D. Hall asked if lot 36 involved the burial. M. Dega said the only involvement lot 36 had was that lot 36 touched the easement line. D. Hall said figure 8 on page 14 needed more clarity and should be revised.

K. Kapu asked about proposed utilities in the area and felt the council could not make a determination because of the lack of dynamics in the area. M. Dega said the point of buffer zones were to restrict construction from an area. M. Dega said he did not have the landowner's building plans and was at the meeting to ensure an adequate buffer zone was in place. M. Dega said the buffer zone was in a "no build zone." C. Maxwell asked if figure 4 on page five could be enlarged.

D. Hall said to delete the words "as is evident from the map," in the third sentence at the top of page six because the reference to figure 4 had no topographical lines, scale, or other indications of elevation. In reference to the following paragraph on page six, D. Hall said the burial rules afforded the council the opportunity to ask for inventory survey reports. D. Hall thought it would be better to have an inventory survey report before a burial treatment plan. D. Hall said the second paragraph on page seven maintained

that 40 archaeological sites were identified, yet later said the final site count was being evaluated. D. Hall said the council wanted assurance the archaeological issues had been dealt with prior to the council making a determination. D. Hall pointed that the text under sub-heading Burial Interpretation on page 11 indicated four bones of a right foot were found. D. Hall said an additional bone of the right foot was discovered during the site visit by K. Kapu and E. Kaahui. D. Hall said the text should reference five bones of the foot and a vertebral fragment was discovered and not just four foot bones. D. Hall asked for clarity on whether or not carpals were found and if so to include a description of the discovery under sub-heading Burial Interpretation and have the skeletal inventory form on page 12 reflect the necessary parts. D. Hall pointed out that the skeletal inventory form showed metatarsals (foot bones) and not carpals (wrist bones). D. Hall asked that the BTP clearly identify what of the individual was discovered. D. Hall was confused on the buffer description in the last paragraph on page 13 because distances were given for all directions except the "north flank".

M. Dega said the buffer distance from the site to the edge of the property line of lot 35 was 10 feet. M. Dega said the distance from the edge of the property line of lot 35 to the drainage reserve, which marked the edge of the property line of lot 36 was 50 feet. D. Hall wanted to know why the buffer was oddly shaped and why only 10 feet was given for the northern side of the buffer. M. Dega said the landowner of lot 36 could not build or do any activity within the drainage reserve area which would place ownership and responsibility solely on the property owner of lot 35. D. Hall asked that the BTP be revised to reflect the distances on all four sides of the buffer area and that figure 8 be clarified so it was easier to understand.

L. Kuloloio was unclear on some of the figures and information shown and referenced in the BTP, especially regarding second and third hand information which missed sites in a previously surveyed area. K. Kapu questioned the use of the words, "accepted by all" in the fourth line of the second paragraph on page 13. K. Kapu wanted to know what was meant by, "accepted by all". M. Dega said putting orange construction fence around the site was to establish a buffer area as a short-term protective measure. M. Kirkendall said SHPD favored leaving the orange construction fence in place until after all construction activities had been completed.

D. Hall questioned the last paragraph on page 15 which indicated the north side having a 60 foot buffer. M. Dega said 10 feet from lot 35, plus 50 feet from the drainage reserve was how the north side ended up with a 60 foot buffer. D. Hall wanted to be sure that if lot 36 was involved with the interim and permanent preservation measures, that the text within the BTP reflects the involvement of lot 36. D. Hall said it was important to know which lots were involved so the council would know who would be responsible for the burial. D. Hall suggested removing the second to the last bullet point under subject heading Interim Preservation Measures. D. Hall said the second to the last bullet point should be stated in the text before or after preservation measures and not where it currently was. D. Hall wanted to know what the 12,500 square feet at the end of the first bullet point on page 16 was reflective of. D. Hall wanted to be sure the correct buffer area was cited. In regards to the text of the fourth bullet point on page 16, D. Hall asked what the council's thoughts were if dry wall or mortaring needed to be included when sealing the opening of the rock shelter. K. Kapu thought dry wall could



easily seal the opening to the rock shelter. E. Kaahui suggested use of mortaring to seal the opening because of the possibility of water flowing through the gulch. D. Hall said mortar deteriorates over time and if mortar was used, then a provision for upkeep and maintenance would need to be included to ensure the opening of the rock shelter remained sealed. K. Kapu wanted clarification on which rock shelters were being sealed. D. Hall said only the rock shelter with the burial would be sealed. D. Hall said the first bullet point and the last bullet point on page 17 were repetitive and suggested deleting one of the two bullet points. D. Hall suggested including the archaeological inventory survey [in preparation by SCS] as a reference on page 19 because the inventory survey was referenced to within the text.

D. Hall said the 45 day clock for the council to make a decision started once a BTP was placed on an agenda for determination. D. Hall said the council could make a determination now or wait for the next regularly scheduled MLIBC meeting (May 25, 2006) and hope the council had a quorum. D. Hall said the BTP had significant shortcomings that needed to be addressed and preferred to wait until the next MLIBC meeting to make a determination after the necessary revisions had been made. It was agreed by the council to wait until the BTP had been revised before making a determination.

**D. Hall moved and E. Kaahui seconded, “that the Maui/Lanai Islands Burial Council defers a determination on the treatment of site 50-50-03-5769 until the next council meeting in order to allow for the revisions of the burial treatment plan.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**B. KAHULUI AIRPORT IMPROVEMENTS PROJECT, WAILUKU AHUPUAA, WAILUKU DISTRICT, ISLAND OF MAUI, TMK: (2) 3-8-1: PARCEL 19**

**Information/Recommendation:** Discussion of improvements at Kahului Airport and mitigation for Burial Site 50-50-05-1798 (A&B).

*MLIBC Chair, C. Maxwell recused himself due to the fact that had written the cultural assessment for the agenda item that would be discussed. MLIBC Vice-Chair, D. Hall called a brief recess at 10:45 a.m. D. Hall called the meeting back to order at 10:51 a.m.*

Karlynn Kawahara of Munekiyo & Hiraga introduced herself and said she was before the council to discuss mitigation proposals for the burial discovered at Kahului Airport. K. Kawahara was accompanied by Gene Matsushige, Tony Krauss both of DOT-A (Department of Transportation Airport Division), Allan Hasegawa of KSF Inc. who was the project engineer and Erik Fredericksen of Xamanek Researches who was the project archaeologist. K. Kawahara said the project would receive federal funding and welcomed any comments from the council in regards to the Section 106 National Preservation Act. K. Kawahara said A. Hasegawa would go over a power point presentation with the council.

A. Hasegawa said the power point presentation would cover the scope of the project, the airfield improvements, archaeological inventory of the area, preservation of site 1798, and cost of the project. A. Hasegawa said the scope of the work involved two development projects merging into one development project. A. Hasegawa said the first project was to install a perimeter road around the route of the northern, western and eastern areas of the airfield which included vegetation removal. A. Hasegawa said the second project involved remedying runway safety problems currently at Kahului Airport with included drainage obstructions and other problems. A. Hasegawa said a smaller project was to define and preserve site 1798.

A. Hasegawa said the project's plan to install a perimeter road was outlined in yellow of the power point presentation. A. Hasegawa said the scope of the project was reduced based on the development of other things such as the archaeological inventory and the wetlands in the area. A. Hasegawa said another constraint was the City and County of Maui bike path which was adjacent to the wetland area. A. Hasegawa said the runway safety area was highlighted in red. A. Hasegawa said the roads that would be part of the project were also shown. A. Hasegawa said the thick vegetation in the area would be removed. A. Hasegawa said there was a drainage hazard on both sides of runway 5-23 that would be fixed by extending the culverts beyond the runway safety area. A. Hasegawa said an archaeological inventory and invasive species investigation on both sides of runway 2-20 would need to be conducted in order for the perimeter road to run in that area.

A. Hasegawa said the plan for site 1798 was to follow the previous programmatic agreement. A. Hasegawa said site 1798 would be preserved in perpetuity in consultation with the MLIBC and SHPD. A. Hasegawa said the programmatic agreement proposed to divert some of the runoff onto the burial site area. A. Hasegawa hoped the preservation plan would be clearly defined and become part of the airport plan. A. Hasegawa said a fence or large boulders to the northern side of the project area would be installed with the east and west boundaries having a chain link fence to mark off the area. A. Hasegawa said the southern boundary had enough vegetation to provide the necessary barrier for the site. A. Hasegawa proposed buffers be placed within the 5 acre preservation area for both sites A and B of 1798. A. Hasegawa said any vegetation removal within the preservation area would be done by hand. A. Hasegawa said machinery would only be used outside of the burial area.

A. Hasegawa said he worked with C. Maxwell on developing a plan for the burial. A. Hasegawa said a, three feet by five feet rock platform would mark the site and the surrounding area would be covered by polished river rocks. A. Hasegawa said a plaque identifying the site would be placed on the rock platform. A. Hasegawa said work within the preservation area would be done by hand. A. Hasegawa identified the location of the burial sites on the power point display. A. Hasegawa said the north would have boulders, the east and west would have a 200 foot setback in the vegetation area and the south have runway 5-23. A. Hasegawa said a gate would be installed in the 200 foot setback for the purpose of accessing the site. A. Hasegawa said an interior fence would be placed around sites 1798 A and B. A. Hasegawa said the goal was to address the council's concerns while working with the constraints of the FAA's (Federal Aviation Administration) safety criteria. A. Hasegawa said the FAA did not allow for

anything over 3 inches above the ground in flight operated areas. A. Hasegawa said the vegetation within the preservation area of site 1798 would be removed to help better identify the site's location. A. Hasegawa said the chain link fence that would be installed on the eastern side would run into the "object free zone". A. Hasegawa said concrete markers measuring 12 inches wide by 5 inches in depth and 5 feet in length would continue to mark the boundaries where the chain link fence ends. A. Hasegawa said the concrete markers would be very similar to concrete curbs used in parking lots. A. Hasegawa said the plan devised would be followed and any deviation away from the preservation plan would be discussed before the council. A. Hasegawa said construction had been targeted to start in June of 2006 with a working timeframe of about a year to complete the project (May 2007).

L. Kuloloio asked what the corridors protecting site 1798 were and what boundaries made the site part of the project area. A. Hasegawa said the boundaries were defined in a report by David Welch (International Archaeological Research Institute, Inc.) who also identified sites 1798 A and B. A. Hasegawa said D. Welch did not do a very in depth archaeological inventory survey of the area and as a result, a 200 feet setback on both sides of the burial site was recommended. L. Kuloloio asked if site 1798 was the only site at Kahului Airport. A. Hasegawa said there was another site designated 1799 at Kahului Airport. L. Kuloloio wanted to know if studies had been conducted to show if the runway had any type of slope that would cause rain water to flow in a particular direction. L. Kuloloio asked where would flood water drain towards. A. Hasegawa said rain water ran north toward Sprecklesville and eventually to the ocean. L. Kuloloio asked if the rain water ran towards the preservation site to which A. Hasegawa said yes. A. Hasegawa said runway 5-23 was in the flood zone. L. Kuloloio asked if a fence would be placed around the preservation area. A. Hasegawa said a four foot high fence would be placed around the preservation area.

L. Kuloloio asked if there was a way to divert the rain water to prevent the site from flooding. A. Hasegawa said the site was a sump which was why the water drained towards the area. L. Kuloloio asked if the preservation site was the lowest elevated area of the project to which A. Hasegawa said yes. L. Kuloloio wanted to know if the engineers on the project could come up with methods to divert the rain water and runoff away from the site and what type of plan was in place to address the 50 and 100 year flood issues. A. Hasegawa said the long range plan of the EIS (Environmental Impact Statement) was to divert the runoffs into the ocean. A. Hasegawa said he knew of no other plan to divert water away from site 1798, other than the EIS. M. Kirkendall asked about a berm that was proposed to divert water. A. Hasegawa said there was a 64 inch culvert that drained into site of 1798 B but a plan was proposed to divert water away from the site through use of a berm.

L. Kuloloio wanted to know if the berm could be continued around the entire site to divert water from flooding the area. A. Hasegawa said the outlet from the 64 inch pipe was six feet above sea level. A. Hasegawa said the preservation area was a natural holding area for water that dissipated through evaporation. M. Kirkendall said a possible alternative was to move the burial outside of the "object free zone" and have the area where the water collected filled in. A. Hasegawa said during the original construction of Kahului Airport, the runway area had been constantly covered with fill

which caused low points that happened to contain the burial. L. Kuloloio asked where the location of the berm was planned. A. Hasegawa said the berm would run parallel with the "object free zone" line to help divert some of the water in the area.

K. Kapu asked for clarification on what made the project a Section 106 matter. K. Kawahara said the project was a Section 106 matter due to the involvement of the FAA and the support of federal funding. K. Kawahara said the National Historic Preservation Act required the project to seek comments from anyone who may have a cultural concern with the project or preservation plan. K. Kapu wanted to know who and what organizations were involved with the Section 106 process. K. Kawahara said the packets received by the burial council were also sent to other agencies which included OHA (Office of Hawaiian Affairs) who did submit comments on the project. K. Kawahara said she would provide additional information on the other entities that packets were sent to for comments on the project. D. Hall asked K. Kawahara what SHPD required of the project. M. Kirkendall said SHPD was still in the review process. M. Kirkendall said SHPD would ask for an inventory survey for areas that had not been previously inventoried.

E. Fredericksen said preliminary work had been conducted in the project area and additional work would be carried out once the contract for the overall construction was awarded. M. Kirkendall asked if Xamanek would provide SHPD with a recommendation based on the work that was completed. E. Fredericksen said he had submitted recommendations to SHPD. D. Hall asked if subsurface testing would be conducted to which E. Fredericksen said yes. E. Fredericksen said there was an extensive pre-Contact habitation deposit which probably stretched from Paia onto Kahului Airport. D. Hall wanted to know if the council was being asked for comments on the plans prepared for site 1798. D. Hall mentioned a preservation plan had been prepared by [MJ] Tomonari-Tuggle and [David J] Welch in July of 1997. D. Hall said the programmatic agreement which was signed in September of 1997 referred to the necessity for DOT to prepare an acceptable BTP. D. Hall asked if the preservation plan of July, 1997 was considered an acceptable burial preservation plan. M. Kirkendall said she was not sure. E. Fredericksen did not think the preservation plan of July 1997 was ever submitted to SHPD and if the plan was submitted, E. Fredericksen did not think SHPD ever reviewed the plan. M. Kirkendall thought the plan may have been submitted and reviewed on Oahu. M. Kirkendall suggested checking with SHPD's main office at Kapolei to see if any correspondence on the July 1997 preservation plan existed. M. Kirkendall suggested reviewing the minutes to see if the preservation plan was accepted.

L. Kuloloio wanted to know if the preservation plan of July 1997 was for the Kahului Airport project. E. Fredericksen said the preservation plan was only for the known burial site of 1798. D. Hall suggested C. Maxwell re-title his preservation plan. D. Hall said if the preservation plan of July 1997 was formally accepted suggested doing an addendum. D. Hall said if the preservation plan of July 1997 was not formally accepted, suggested taking the relevant elements of the plan to form a basis that could be incorporated with the plan submitted by C. Maxwell. D. Hall said if elements from the two plans were used to formulate a new plan, then the new plan should be referred to in the programmatic agreement. D. Hall said if the preservation plan of July 1997 was the recognized plan referred to in the programmatic agreement then an addendum would

be prepared. D. Hall said the addendum would include recommendations from CKM Cultural Resources Management as well as any recommendations from the burial council.

D. Hall said in addition to the signage containing the word *Kapu*, the signage should also state that 1798 was a burial site. D. Hall asked why the rock platform was three feet by five feet in measurement. D. Hall asked if the exact location of the burials were known. C. Maxwell said he buried the remains in the 1975 and requested that large boulders be placed around the burials to mark where the site was. C. Maxwell said he never checked to see if the large boulders were placed around the burials which he later learned, was never done. C. Maxwell said he tried to locate the burials 10-15 years later but was unsuccessful. D. Hall said there were both disturbed remains and in situ burials. D. Hall said the platform would not go over the burials because the exact burial location was not known, to which C. Maxwell acknowledged. D. Hall said to clarify the language pertaining to the rock platform and burial location within the preservation plan written by C. Maxwell. D. Hall asked if the platform was to mark that burials were in the area to which C. Maxwell answered yes. D. Hall said a figure needed to be developed by E. Fredericksen which showed the preservation area and the marker within the preservation area. D. Hall said the three feet by five feet surface marker seemed small. C. Maxwell said the size of the platform could be increased and the three by five feet measurement was purely arbitrary.

D. Hall asked how high the FAA would allow the rock platform to be. A. Hasegawa said three inches above the ground. L. Kuloloio wanted to know if the ground level being used would be from the project area of site 1798 or the ground level of the runway. D. Hall said the three inches would be the existing ground level where the burial preservation area currently was. Given the constraints of the FAA, D. Hall thought a plaque in a shallow pavement was a workable solution. D. Hall asked if the project area would be surveyed to which A. Hasegawa answered yes. A. Hasegawa said the long range plan was to divert water away from the burial site. A. Hasegawa said the preservation area would be filled in the future by four or five feet of ground deposit that would further protect the site. L. Kuloloio wanted to know all the constraints he had to work with. W. Frampton wanted to know if the four or five feet of fill would be added to the site in the future, why the surface platform could not be higher than three inches. A. Hasegawa said the site would be marked, recorded and shown on any future plans for development in the area. L. Kuloloio preferred to fill the whole preservation area with *pohakus* and have the site protected for life. D. Hall asked if L. Kuloloio's suggestion was possible. A. Hasegawa said L. Kuloloio's suggestion was not possible given the current constraints of engineering and the break and drainage system. D. Hall said use of a berm was discussed in the past and thought it was still a good way to divert water. D. Hall was curious to know when the preservation area would be filled. A. Hasegawa said placing fill in the preservation area was part of the long-range plan of the EIS.

Given all the rules and constraints of the FAA and other entities involved, L. Kuloloio wanted to know what the maximum conditions he had to work with especially with the construction of the rock platform. C. Maxwell said the plan was to mark the site now and when the site was filled in the future, the marker would be removed and replaced after filling had occurred. L. Kuloloio did not want the council to restrict themselves from

making a decision in anyway. D. Hall said the safety of airplanes was *mea nui*. D. Hall said the project area was dedicated to airport uses. D. Hall said the project area was subject to federal laws which could not be changed and it was the council's responsibility to work with the restrictions of the federal laws. D. Hall thought the area demarked for preservation appeared to be reasonable. D. Hall said there was a three inch limit on how high construction could occur within the preservation area. D. Hall suggested placing a bronze marker with the proposed signage language and making recommendations on maintenance of the area. D. Hall asked if the preservation area could be landscaped and if so what type of restrictions the council had to work with. A. Hasegawa said yes. M. Kirkendall interjects to ask if the platform was placed outside of the "object free zone", could the platform be higher than three inches. A. Hasegawa said yes. M. Kirkendall asked if there would be a curving marker. A. Hasegawa said there would be a curving marker that stretched the length of where the preservation site was located. D. Hall asked if the berm would be within the preservation area to which A. Hasegawa said yes.

W. Frampton asked if a platform higher than three inches could be constructed on the *makai* side of the red line to which A. Hasegawa answered yes. A. Hasegawa wanted to know how big of a platform was being sought after, which could not be the size of the entire preservation area because of the 64 inch drainage pipe that emptied a lot of water into the site. A. Hasegawa said the preservation area was the only place for water to drain. A. Hasegawa said the proposal was to identify the site in perpetuity so all future plans involving development would know exactly what site 1798 was and where site 1798 was located. A. Hasegawa said future plans would have a starting point once site 1798 had gone through the preservation process. L. Kuloloio wanted to be sure the site was protected so in the future site 1798 would not be the collection point for water. D. Hall asked if a higher platform could be erected as long as construction occurred *makai* of the red line to which A. Hasegawa answered yes. W. Frampton wanted to know what size platform the council normally recommended be constructed. D. Hall said ordinarily platforms were four feet long by four feet wide and two feet high. A. Hasegawa said the project was open to any recommendations from the council.

D. Hall said landscaping the preservation area should be done in a way that would provide some type of delineation from the surrounding area. A. Hasegawa said the Department of Health was concerned about the amount of water that collects in the area and the possible invasion of the West Nile Virus. A. Hasegawa said dense vegetation would create a habitat for mosquitoes to flourish. K. Kapu wanted to know if and where endemic fauna were within the preservation area. K. Kapu suggested planting lowland shrubs such as *akulikuli*. Pua Paoa suggested planting *ilima*. K. Kapu wanted to know if there were endemic faunas that could thrive in brackish water. A. Hasegawa said the area floods to depths of three or four feet of water during heavy rains. A. Hasegawa said it usually took five to seven days for the area to dry. A. Hasegawa said any vegetation proposed would need to be semi-aquatic to survive during times of flooding. K. Kapu suggested planting *makaloa*. S. Fisher suggested planting *kaluha* and *aiai* along with *akulikuli* and *makaloa*. S. Fisher offered to help with suggesting semi-aquatic plants that would thrive in the area.

A. Hasegawa said as the types of aircraft change and safety requirements change, he made the council aware that there was a high probability the boundaries of the preservation area may also change. D. Hall said the preservation plan called for preservation in perpetuity. A. Hasegawa said the preservation plan would forever identify and demarcate on all future plans the location of site 1798. D. Hall thought site 1798 would be permanently preserved. A. Hasegawa said he did not see any plans in the EIS that indicated development of the preservation area.

K. Kapu wanted to know why the berm could not run parallel with the “object free zone” boundary line to divert water from entering the preservation site. A. Hasegawa said the drainage pipe was 64 inches in diameter and the berm would only be about six inches in height. A. Hasegawa said the berm would need to be a lot higher in order to divert the amount of water that would flow into the area.

D. Hall said to work with SHPD on the possibility of synthesizing the preservation plan by Tomonari-Truggle and Welch with the plan by CKM Cultural Resources and the comments by the burial council or to create an addendum that would include the recommendations by both CKM Cultural Resources and the MLIBC. A. Hasegawa said the programmatic agreement was the plan that all the participating agencies had agreed to follow. D. Hall suggested doing an addendum and incorporating elements of the plan by CKM Cultural Resources. D. Hall suggested including the comments by the council as well as all the proposals discussed by KSF Inc. as part of the addendum. A. Hasegawa wanted clarification on exactly what the council was recommending be included in the addendum so a presentation could be properly prepared for. D. Hall said the council wanted the preservation area clearly delineated. A. Hasegawa said delineation of the preservation area would occur. D. Hall said the location of the platform marker should be shown with the metes and bounds description outside of the “object free area”. D. Hall said the specific language on the signage that would be attached to the platform and the specific landscaping that would further help demarcate the area should also be noted. W. Frampton suggested including the suggestions by D. Hall as an exhibit of the addendum. A. Hasegawa wanted to know if the council was looking for another presentation or written documentation of their suggestions and comments. D. Hall said the council wanted written documentation.

K. Kapu asked to see recommendations by other agencies such as OHA on the particular project. D. Hall asked that copies of any relevant comments by other agencies be sent to the council. K. Kawahara said she would provide written correspondence to the council of comments by other agencies. L. Kuloloio wanted language about diverting water from site 1798 in the future included in the plan.

**W. Frampton moved and S. Fisher seconded, “that the Maui/Lanai Islands Burial Council recommends that an addendum burial preservation plan be submitted for the council’s review and recommendation and for approval by SHPD. This addendum plan shall include specifics about the burial preservation area, shall contain a figure showing the exact size of the preservation area and any other relevant markers including the object free zone line etcetera, and details on landscaping, berms, burial platform markers and signage.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**C. PROPOSED LAHAINA CANNERY MALL EXPANSION PROJECT AND RELATED IMPROVEMENTS, MOALII AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK: (2) 4-5-11: 2, 3, AND 4.**

**Information/Recommendation:** Discussion of Lahaina Cannery Mall Expansion and related improvements.

Mark Roy of Munekiyo and Hiraga introduced himself and said he represented the applicant of the Lahaina Cannery Mall expansion project. M. Roy said he was joined by E. Fredericksen of Xamanek Researches and architect Calvin Higuchi of Hiyakumoto and Higuchi. M. Roy said an SMA (Special Management Area) and SUP (Special Use Permit) for the expansion project were filed with the county on January 5, 2006. M. Roy said the expansion project was before the council for comments and recommendations. M. Roy gave a brief background of Lahaina Cannery Mall, including the location, surrounding area, list of businesses within the mall and the mall's hours of operation. D. Hall interjects and said the council did not need a full report on the project and asked M. Roy to focus on the burial issues involved with the project. D. Hall said it was her understanding that two in situ individuals were reinterred in a designated preservation area. D. Hall said that when the council had approved the BTP, the council understood that the landowner at that time would not develop the area where the burial had been reinterred. D. Hall said Lahaina Cannery was under new ownership and there were plans to develop the area where the burial was. D. Hall asked M. Roy to focus on what sort of development would occur near the burial so the council could make any necessary recommendations.

M. Roy said the existing preservation area was designated site 50-50-03-4722 and encompassed approximately 244 square foot. M. Roy said the preservation plan prepared by Xamanek Researches on September 14, 2003 had been approved by SHPD. M. Roy said the council had also approved the preservation plan on September 25, 2003. M. Roy pointed out the preservation area on a display board he had brought.

E. Fredericksen said he was called back in 1998 by Compadres Bar and Grill who discovered *iwi* while doing excavation work. E. Fredericksen said two burials were discovered, one burial had been inadvertently removed by a backhoe and the other burial was nearly complete. E. Fredericksen said SHPD did not have an archaeologist on Maui at the time. E. Fredericksen said he contacted D. Hall, L Kuloloio and C. Maxwell. E. Fredericksen said the burials were interpreted to be native Hawaiian and pre-Contact. E. Fredericksen said a decision was made to relocate the burials near Kahoma Stream into a preservation area. E. Fredericksen said the Omori Corporation owned the mall at the time and did not have plans to develop the area. E. Fredericksen said the soil the remains were discovered in was very sticky and hard and which made it impossible to separate the remains from the soil. E. Fredericksen said a decision during reinterment was made to put a large amount of soil mixed with remains into the ground, followed by the collected remains and capped with a concrete marker.

C. Higuchi said two new building would be constructed--one near the highway and the second sort of wrapping around the existing maintenance building. C. Higuchi identified



the burial site in perspective with where the second new building would be built. C. Higuchi said there were four rock pillars that designated the site and the plan was to maintain what was currently there for the time being. C. Higuchi said a concrete curb would encircle the site. C. Higuchi said a monkey pod tree near the site was proposed to be relocated into a new parking area. D. Hall asked if the tree would be transplanted to which C. Higuchi answered yes. C. Maxwell wanted to know why the tree would be relocated. C. Higuchi said the tree would be in the middle of where a new driveway was proposed to be built.

L. Kuloloio said reinterment for site 4722 was very deep and very wide. L. Kuloloio said a lot of *lepo* or unscreened dirt was used to fill the preservation area. L. Kuloloio said removal of the tree would disturb the burials. L. Kuloloio said the council did not know the monkey pod tree would have become part of future plans. L. Kuloloio said had he known the tree would be relocated, he would have preferred the tree been cut down and a concrete embankment be (inaudible) in place of the tree. L. Kuloloio said he did not have a problem with cutting the tree, but did not want the tree to be uprooted. C. Higuchi said the tree was 15 feet away from the site and did not think the root ball of the tree would disturb the burials. C. Higuchi said the root ball of the tree would be cut significantly less on the side nearest to the burials. W. Frampton wanted to know if it was possible to get a large enough root ball without going into the preservation area. Russel Gushi the landscaping architect of the project introduced himself and said it was possible to get a big enough root ball without encroaching or disturbing the burials. R. Gushi estimated a radius of five or six feet from the tree trunk.

L. Kuloloio said a very deep hole was dug and filled with two or three truckloads of unscreened fill. L. Kuloloio said when removing the tree, the side facing the burial would need to have a plate driven into the ground to prevent the soil from collapsing and disturbing the burial. C. Maxwell wanted to know if the tree could be left in place and if the project could be redesigned around the tree. C. Higuchi said the tree did not have to be relocated and could be cut to ground level. C. Maxwell thought the tree was an important part of the site that also provided shade for the area. C. Maxwell wanted to know why the tree could not be left where it was. C. Higuchi said the tree would be in the way of a loading area.

W. Frampton wanted to know if a landscaping plan had been approved along with the original burial preservation plan. W. Frampton said he liked the idea of preserving mature trees. W. Frampton said parking requirements called for trees to be planted and if small trees were planted it would be years before a canopy of shade would be provided. W. Frampton wanted to know what the depth of the root ball would be if the tree was removed and suggested replacing the monkey pod tree with another tree that may be more culturally appropriate. W. Frampton said removal of the tree as a root ball was not complex project when the right structural measurements were used. W. Frampton said he was more concerned with what type of tree should go in place of the monkey pod. C. Maxwell said he liked the monkey pod tree. L. Kuloloio said the burial was placed near the tree because the council thought that area would be preserved the way it was forever.

S. Fisher said the new landowners should have known that it was their responsibility to preserve the site when they bought the property. S. Fisher wanted to know if removal of the tree would infringe on the buffer zone. S. Fisher wanted to know where the buffer zone was. E. Fredericksen said the landowners of the property during reinterment did not ever plan on developing the area. W. Frampton asked if there was a buffer around the site. E. Fredericksen said he did not think any specific language was put in for establishment of a buffer. W. Frampton wanted to know why a buffer was not established when the burial was reinterred. W. Frampton asked if the maintenance building, the curb, and the monkey pod tree was present during reinterment of the burials to which L. Kuloloio said yes.

E. Kaahui wanted to know if the monkey pod tree was part of the landscaping plan during the original construction of Lahaina Cannery. C. Higuchi did not think there was a landscaping plan for the area because the area isn't landscaped. C. Maxwell wanted to know if the proposed construction could be reconfigured so the tree could be left in place. C. Higuchi said he was not sure because he would need to go out to the site and visually see if the tree could be left in place. S. Fisher was confused because the tree was to be relocated to make room for a loading area, yet trucks and traffic would be right next to the burial. D. Hall thought the tree should be left in place to afford some integrity for the burial. Given the increase of traffic that would occur as a result of the construction, D. Hall thought the burial should have some sort of enclosure to prevent unintentional intrusion. D. Hall said the integrity of the area would be severely compromised by the proposed construction plans unless changes were made to protect the site.

C. Maxwell said the burial site should be treated with respect, the tree should be left in place, a buffer should be established, and the plans should be reconfigured to accommodate the necessary changes. L. Kuloloio said the preservation site was chosen because that was the best area at the time and the council thought the site would be protected in perpetuity. L. Kuloloio said he did not have any knowledge or indication [at the time] that [future] construction plans would compromise the burial site. L. Kuloloio thought the preservation site may need to be increased to incorporate development changes that may occur in the future. L. Kuloloio also favored establishing a buffer for the burial site that would include the monkey pod tree. E. Fredericksen said he had never been involved with a project that had the particular circumstances currently being discussed. E. Fredericksen thought the metes and bounds would need to be redone. M. Kirkendall said the project was in the SMA process and SHPD would ask for an inventory survey of two, three and four exclusive of the preservation area. M. Kirkendall said parameters needed to be set should other human remains be identified during the inventory survey.

L. Kuloloio suggested a site inspection to visually see what could be done with regards to reconfiguring designs and creating a buffer. C. Maxwell wanted to know if it would be easier for Xamanek or the burial council to do a site visit to delineate the preservation area. E. Fredericksen suggested a site inspection with K. Kapu, L. Kuloloio and himself.

K. Kapu wanted to know about the concrete pillars. E. Fredericksen said a big hole was dug before Xamanek Researches were called to the site [in 1998]. K. Kapu wanted to

know if and where the four pillars designating the site were because all four pillars could not be seen from the pictures within the burial preservation plan by Xamanek. E. Fredericksen identified the four pillars on additional photographs. C. Maxwell also suggested a site visit with burial council members, the engineers and Xamanek Researches. K. Kapu wanted to know how far an adjacent property was to the burial site which C. Higuchi said was 28 feet. W. Frampton asked if there was an access lane between the burial and county line to which C. Higuchi said yes.

V. Kanemoto said the site visit that included the council members had to be with at least two members but not more than five members which was one less than quorum. D. Hall said a site visit would require the council members to give an update of the visit at the next MLIBC meeting, which would mean the council would need to wait until the following meeting to make a determination. D. Hall wanted to know if there was a way to prevent the delay in making a determination. V. Kanemoto said two council members could go to the site visit and discuss board business as long as no commitment to vote in any particular manner from each other occurs. K. Kapu wanted to know what the distance was from the monkey pod tree to Kahoma Stream.

M. Roy asked for clarification on what recommendations the council wanted. M. Roy suggested creating drawings of alternative preservation measures that would include a buffer rather than having a site visit by council members. C. Maxwell said he would rather council members visit the site. D. Hall still wanted to see what type of reconfiguration drawings could be created. D. Hall said the site visit was to obtain more information to see if the monkey pod tree could be incorporated into the preservation area. C. Higuchi said the landowner wanted to reach an agreement with the county on maintenance of the county property. C. Higuchi said a suggestion was made to have the monkey pod tree as one corner of a buffer area that ran to the county property line which would be maintained by both the landowner and the county. C. Maxwell and L. Kuloloio both agreed with what C. Higuchi had said.

U. Kapu said she had visited the site many times. U. Kapu said she was against having any type of access road built next to the site due to the amount of traffic the road would cause. U. Kapu said she was against having a building next to the site or a fence constructed around the site.

**D. Hall moved and L. Kuloloio seconded, “that the Maui/Lanai Islands Burial Council recommends that the monkey pod tree next to the burial preservation area be retained if possible in its current location and that the burial preservation area be expanded to incorporate the tree.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**D. DRAFT BURIAL TREATMENT PLAN AND PRESERVATION PLAN FOR POSSIBLE BURIAL FEATURES CONTAINED WITHIN SITES 50-50-01-5139, 5142, 5157 AND 5158, HONOKAHUA AND NAPILI 2 & 3 AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK: 4-2-01: 01**

**Information/Recommendation:** Discussion on a request to preserve in place possible human skeletal remains.

Ryan Churchill of Maui Land and Pineapple Company (MLP) introduced himself and said he was present to request an approval of a BTPP (burial treatment and preservation plan). R. Churchill identified the project area on a map. C. Maxwell wanted to know if a gate was present on the access road to the pineapple field where the site was to which R. Churchill answered yes. R. Churchill identified the subject area, a golf course and the plantation area on figure 4 of the BTPP. R. Churchill said Kapalua Mauka totaled 945 acres. R. Churchill said two archaeological inventory studies had been completed, the first in 1998 with the second in 2001. R. Churchill said both inventories had been accepted by SHPD. R. Churchill said the inventory by Xamanek identified four potential sites located in Honokahua Gulch.

E. Fredericksen said the first phase of the project was completed by Cultural Surveys Hawaii. C. Maxwell interjects to ask if the subject area was called Napili or Kapalua Mauka. E. Fredericksen said the features identified by Xamanek were found in Honokahua gulch. E. Fredericksen said the gulch was very steep with a broad stream at the bottom. E. Fredericksen said Xamanek identified 37 sites that ranged from agriculture, temporary habitation features, and ceremonial features. E. Fredericksen said Xamanek came across four features that were treated as possible burial sites. E. Fredericksen said two of the four sites were portions of agricultural sites and the other two sites were rock overhang shelters. E. Fredericksen said the request was to preserve the four possible burial sites in place as is. E. Fredericksen said construction was not possible at Honokahua Gulch because of the amount of sites identified in the area and because of the steepness of the gulch.

C. Maxwell wanted to know what was planned for Kapalua Mauka. C. Maxwell wanted to know about sites identified towards the Lahaina side boundary line of the Kapalua Mauka area. E. Fredericksen said the sites in question were identified in the Napili Gulch by another archaeological firm. E. Fredericksen said there was no development planned for the Napili gulch. E. Fredericksen said the reason for coming before the council was to get an approval to preserve in place the four possible burials. W. Frampton wanted to know how the four sites were determined to be burial sites. E. Fredericksen said the sites were treated as possible burials because the gulch was too steep for testing to occur and the landowner had agreed to preserve the sites anyway. E. Fredericksen said site 5139 was part of a constricted rock overhang. E. Fredericksen said site 5142 had a small water worn cobble on the surface of a rock overhang. E. Fredericksen said site 5157 was a rock overhang shelter that had a possible habitation component. E. Fredericksen said site 5158 had two possible burial features, one being a rock mound and the other being part of a small collapsed terrace. E. Fredericksen said burials had been found in the past in similar context by Xamanek as evidenced by all four sites which was the reason the four sites were identified as possible burials.

K. Kapu asked if there were only four burials in the entire Honokahua Gulch. E. Fredericksen said there were probably more burials but only four possible burial sites were identified by Xamanek. E. Fredericksen said some areas had really dense vegetation and Xamanek did the best job they could. K. Kapu asked about the other sites identified. E. Fredericksen said some were dry land agricultural sites, loi,

ceremonial features and habitation features. K. Kapu wanted to know if Maui Land and Pineapple would be open to preserving the entire river bed. E. Fredericksen said it was his understanding that the river bed would be preserved because it was an area that could not be developed. K. Kapu wanted to know if there would be hiking trails or horseback trails to which E. Fredericksen said he was unsure.

L. Kuloloio wanted to know if Xamanek surveyed the entire Kapalua Mauka area. E. Fredericksen said Xamanek surveyed about half of the 945 acre property. E. Fredericksen said the other half was surveyed by Cultural Surveys Hawaii. L. Kuloloio wanted to know if there were future plans for the surrounding areas of Honokahua Gulch. L. Kuloloio did not want to preserve possible burials in place, if houses would be built on the flat lands above the preservation site for fear of a drainage system washing into the gulch and damaging the sites. L. Kuloloio wanted assurance that the site would be protected in perpetuity. E. Fredericksen said he could not comment on what the future held but mentioned the gulch was 500 feet wide. R. Churchill said the entire Kapalua Mauka property excluding the gulches was designated as project district 2 which meant that the pineapple fields could be residential areas. R. Churchill said the whole area was rezoned and re-designated by the land use commission except for Honokahua Gulch which remained as an agriculture area. R. Churchill said the Honokahua Gulch encompassed about a 135 acres.

(S. Fisher exits the meeting at 1:15p.m.)

C. Maxwell wanted to know what the golf course was zoned as. R. Churchill said the golf course was zoned as urban at the state level and West Maui project district 2 at the county level. R. Churchill said that every site identified was to be preserved in place. L. Kuloloio wanted to know if future development plans for the area would require MLP to come before the council to address the issue. R. Churchill said MLP was trying to address the issue now. L. Kuloloio wanted to know what would happen if the council approved the BTPP and homes were built above the burials in the future that had runoffs that drained onto and damaged sites in the preservation area. V. Kanemoto said if MLP applied for county permits for development, would trigger Chapter 6E-42 of the Hawaii Revised Statutes. V. Kanemoto said the council could make a recommendation that any permits filed with the county for future development surrounding the Honokahua Gulch should be sent to SHPD for review and comment. V. Kanemoto said SHPD could then recommend mitigation measures to protect the preservation sites. C. Maxwell wanted to know about the other sites. V. Kanemoto said the council could only make recommendations on the potential burial sites and did not have jurisdiction on historic sites.

L. Kuloloio wanted to know if SHPD could review permits and make decisions without consulting the council. M. Kirkendall said SHPD would review all future permits applied for with the county by MLP. M. Kirkendall said there was no provision that allowed the council to review permits but thought there may be a part of the process that allows for public comments. R. Churchill said SHPD currently had the subject BTPP and permits for subdivision to review. L. Kuloloio asked if MLP would address future plans with the council to which R. Churchill said no. L. Kuloloio did not want to approve the BTPP if the subdivision built above the gulch would cause damage to the sites below. R.

Churchill said MLP would take necessary measures to protect the site as they had done in the past for other projects. R. Churchill said excess water would be diverted away from the sites to prevent damage.

K. Kapu wanted clarification on the language used on page 19 under the subheading Perpetual Maintenance and Access of the BTPP which read, "It is not anticipated that the preservation areas for the sites discussed in this plan will have any maintenance requirements. However, future plans call for the development of an interpretive access trail within Honokahua Gulch. Consequently, it is recommended that potential actions/plans be reviewed by the Maui/Lanai Islands Burial Council and the SHPD Maui office." R. Churchill said if MLP ever wanted to put a trail that ran into Honokahua Gulch then they would need present a proposal to the council for comments and recommendations. K. Kapu wanted to be sure that the council's decision was for the four possible burials and that any future development would need to be address before the council.

H. Rodrigues said the council was not making a determination on the agenda item because the item was listed for information and recommendation only. H. Rodrigues said MLP would need to submit written notice to SHPD informing the division of a request to be placed on the agenda for a determination. H. Rodrigues said once the agenda item was placed for determination, then the 45 day clock would start for the council to make a decision. V. Kanemoto asked if the council would make a determination on potential burials to which the council said yes. V. Kanemoto said the agenda item was not being discussed for a determination. R. Churchill said MLP was seeking comments on the BTPP from the council.

L. Kuloloio wanted to know what future plans were proposed for the area and what those plans would look like. L. Kuloloio said as a Hawaiian trying to preserve burial sites when a subdivision would be built directly above the sites was *poho*. K. Kapu wanted to know if the section he read on page 19 of the BTPP was a requirement or a recommendation. M. Kirkendall said SHPD only made recommendations.

R. Churchill described where the proposed subdivision would be on a map that he had brought. L. Kuloloio wanted to be sure that future development plans would be presented before the council. R. Churchill said future permit plans would go to SHPD for review and was not sure if the council would get a chance to review the permits themselves. M. Kirkendall suggested that MLP simply come before the council when future development would occur. R. Churchill said MLP had applied for a golf course permit with the county. R. Churchill said SHPD should have the BTPP, the golf course and residential subdivision permits for review. L. Kuloloio had no idea of how or if the four burials would be impacted in the future because he did not have any future development plans to review. R. Churchill showed a map he had brought with the proposed subdivision that would have 51 lots ranging from half an acre to over two acres.

D. Hall suggested changing the third sentence in the paragraph under subheading Perpetual Maintenance and Access on page 19 of the BTPP to, "The Maui/Lanai Islands Burial Council shall be afforded the opportunity to review and comment on these

future plans.” D. Hall further suggested that the recommended sentence be added with a semicolon after the second sentence of the same paragraph in stead of changing the third sentence. V. Kanemoto suggested including language that pertains to the burial sites to insure the council’s jurisdiction in the matter. D. Hall thought the sentence she recommended was adequate enough. D. Hall said the language may need to be expanded to include any activity that may occur within Honokahua Gulch. D. Hall thought a provision needed to be included in the BTPP allowing for the reconsideration of short and long term preservation measures should any future activity, use or development cause a negative effect on the possible burial sites. D. Hall said the BTPP needed to have mechanisms within the plan that allows for the plan to be reopened should circumstances change. M. Kirkendall thought the additional language D. Hall had proposed should be included in all plans under review by SHPD of the particular Kapalua Mauka project for consistency purposes.

**D. Hall moved and E. Kaahui seconded, “that the Maui/Lanai Islands Burial Council recommends that the burial treatment and preservation plan with possible burial features contained within site 50-50-01-5139, -5142, -5157 and -5158 be revised as discussed at the burial council meeting.”**

**VOTE: ALL IN FAVOR. The motion carried unanimously.**

**E. REPORT ON BILLS IN THE 2006 HAWAII STATE LEGISLATURE AFFECTING CHAPTER 6E-43, ISLAND BURIAL COUNCILS AND/OR BURIAL SITES PROGRAM**

There was nothing to report.

(W. Frampton exits the meeting at 1:50p.m.)

**F. CASE UPDATES / OTHER INADVERTENT DISCOVERIES  
Information / Recommendation:**

Inadvertent Burial Discovery at Kahului Harbor Shoreline, Site 50-50-04-5879, Wailuku Ahupua’a, Wailuku District, Island of Maui, TMK: 3-7-01.

D. Hall addressed E. Fredericksen and said the burial was discovered eroding out of the shoreline bank to the right of Y. Hata if you’re on the beach facing the ocean. D. Hall asked E. Fredericksen to consult with Nisei Veterans Memorial Center about having the remains reinterred in the cultural preserve area. E. Fredericksen did not think Nisei would have a problem with having the remains reinterred in the preserve area.

*H. Rodrigues recommended deferring the rest of the agenda items because SHDP staff had to take the Lanai council member to Lahaina to make her return trip home. The Chair and Vice-Chair of the MLIBC asked for five minutes to wrap up the meeting.*

Status Update on Inadvertent Burial Discoveries Hawaiian Cement Sand Mining Project, Wailuku Ahupuaa, Wailuku District, Island of Maui, TMK: 3-8-07: portion 101.

*C. Maxwell requested that the Hamakuapoko case update was being skipped and put off until next month's regularly scheduled meeting.*

Lisa Rotunno-Hazuka introduced herself and said she represented Hawaiian Cement and Alexander & Baldwin. L. Hazuka said she had a BTP for burials identified to date. L. Hazuka introduced Chubby Vicens of Alexander & Baldwin (A&B), Steffi Ross and Bill Horneman of Hawaiian Cement. L. Hazuka said the project area was located off of Kuihelani Highway and Waiko Road in the Waikapu district. L. Hazuka said the project area being discussed was a 59 acre portion of a 434 acre parcel. L. Hazuka said the 59 acres had been divided into two areas, phase B and phase A. L. Hazuka said an inventory survey was conducted and identified five burial features in 1998 that would be preserved in place. L. Hazuka said there were an additional 66 inadvertent burial discoveries to date identified at both phase A and phase B. L. Hazuka said A&B wanted to preserve 48 burial sites within locales 1, 3, and 4 which totaled about 18 acres. L. Hazuka said A&B was requesting relocation of 18 burial features within locale 2 and the extension of 2, of which 8 features are in situ or partial in situ burials.

C. Maxwell wanted to know the reason for relocation. L. Hazuka said A&B wanted the burials to be more confined to one area and mentioned there was a preservation area in phase B that had two burials. L. Hazuka said page five of the BTP had detailed information about each locale. D. Hall asked about the area between locale 2 and 3 to be identified. L. Hazuka pointed out the area on a map. D. Hall said the area between locale 2 and 3 was a sand dune area to which L. Hazuka confirmed. L. Hazuka said no mining was done in the sand dune area between locales 2 and 3, based on a motion made by the council at an earlier meeting. D. Hall asked how many burials were found in locale 2. L. Hazuka said there were 11 burial features, 4 of which had partial in situ components, 1 which was listed as a probable in situ burial and 6 disturbed features.

H. Rodrigues interjects to clarify if the council was allowed to discuss a BTP that had not been placed on the agenda for discussion. L. Hazuka said she was present to consult with the council on treatment of the burials that were discovered at Hawaiian Cement. H. Rodrigues said the agenda item was listed as a status update and was not sure if discussion of a BTP was an allowable practice. V. Kanemoto asked if a status update was being given. L. Hazuka said she was giving a status update and what the proposed treatments of the burials would be. D. Hall said proposed treatment was part of the discussion. V. Kanemoto agreed that proposed treatment was part of the broader realm of a status update. D. Hall said there would be no approval or determination of the discussed BTP. D. Hall said some of the council members were not as up to date with the Hawaiian Cement issue and L. Hazuka was giving background information to bring everyone up to speed. D. Hall said the burials in extension 2 were recent discoveries. H. Rodrigues said he would feel more comfortable if the discussion was limited to the recent burial discoveries. D. Hall said the BTP would not be discussed and that the BTP was given to the council for the council to comment on at the next MLIBC meeting.

L. Hazuka said there were 7 new finds in locale 2, 3 that were previously disturbed prior to Hawaiian Cement activities, 1 partial in situ burial and 3 possibly in situ burials that were displaced during monitoring. L. Hazuka asked the council to review the BTP for



the next MLIBC meeting and requested the BTP be placed on the agenda for the next meeting. D. Hall said the council had made past recommendations to preserve in place the burials found in locales 1, 2, 3, and 4. D. Hall said the burials found in the area between locales 1 and 3 should be preserved as well as the burials found in the area between locales 3 and 2. D. Hall thought the area between locale 3 and 2 had a high potential for multiple in situ burials. D. Hall said the area was part of a larger dune and wanted to know if there were topographical maps of the area. D. Hall said locale 2 needed to be discussed on the possibility of making locale 2 part of the preservation area.

(H. Rodrigues and P. Paoa exit the meeting at 2:10p.m.)

#### **IV. ADJOURNMENT**

**The meeting was adjourned at 2:10 p.m. due to a lack of quorum.**

Respectfully Submitted,

Kawika Farm  
Clerk Stenographer II  
State Historic Preservation Division